

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>RUBY STREETER,</b>  <b>Plaintiff,</b>  <b>v.</b>  <b>OFFICE OF DOUGLAS BURGESS, LLC., et</b> <b>al.,</b>  <b>Defendant.</b>	<b>Case No.: 1:07-cv-97-WKW</b>  <b>MOTION TO</b> <b>AMEND COMPLAINT,</b>  <b>EXTEND DISCOVERY CUTOFF AND</b>  <b>EXTEND DATES SET FORTH IN UNIFORM</b> <b>SCHEDULING ORDER</b>
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COMES NOW, the Plaintiff, Ruby Streeter, by and through her undersigned attorney and moves this Honorable Court to allow her to amend her initial complaint, to extend Discovery and to extend the dates set forth in the Uniform Scheduling Order. As grounds for her motion, the Plaintiff states as follows:

1. On February 1, 2007, Plaintiff filed her initial complaint against Defendant Burgess.
2. Since filing his answer April 4, 2007, Defendant has retained the services of three separate law firms to defend him in this matter.
3. On July 10, 2007, Plaintiff was obligated to file a motion to compel the Defendant's Discovery Responses.
4. On July 24, 2007, the Defendant finally answered the Plaintiff's First Discovery Requests.
5. Upon receiving the Defendant's Discovery Responses, the Plaintiff immediately set about arranging the Defendant's Deposition.

6. The Undersigned attempted to arrange the Defendant's deposition over two weeks. All of the undersigned attempts were met with the Defendant refusing to provide a location for the Deposition.

7. Finally, the Undersigned indicated his intent to notice the Defendant's Deposition in the Defendant's hometown of Rochester, New York.

8. On October 3, 2007, counsel for the Defendant confirmed and notice was issued of the Defendant's deposition to occur on October 12, 2007, in Rochester, New York.

9. After business hours on October 10, 2007 counsel for the Defendant faxed a letter, (enclosed as Exhibit 1), effectively stating the Defendant would not attend his deposition.

10. The Undersigned was informed of the Defendant's refusal to attend the deposition as the Undersigned arrived at the Montgomery, Alabama airport where his flight was to originate.

11. In preparing for the Defendant's Deposition, and through other investigation, Plaintiff has discovered other defendants who function as alter egos of Defendant, Burgess.

12. In preparing for the Defendant's Deposition, and through other investigation, Plaintiff discovered that Burgess along with said alter egos have been sued nine times in calendar years 2006 and 2007. Furthermore, the other lawsuits involve facts identical to the instant action, to wit: A threat of criminal prosecution to collect a debt.

13. Throughout the litigation process, the Defendant has at every opportunity frustrated and disrupted the discovery process. Defendant Burgess' actions have made a mockery of the discovery process and based upon Defendant Burgess' procrastination and unprofessional delays, give rise and merit to the Plaintiff's reasonable request to amend her complaint as well as expand the discovery cutoff.

WHEREFORE, the Plaintiff moves this Honorable Court pursuant to Federal Rule of Civil

Procedure 15(a) to permit the Plaintiff to amend her complaint to add additional defendants, to extend discovery until February 29, 2008, and to extend the other dates, proportionally, as those dates are set forth in the Uniform Scheduling Order and for all other relief that is just.

/s/ Gary W. Stout  
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**Certificate of Service**

I hereby certify that I have served the Notice of Appearance upon counsels for the Plaintiff, via US Mail, postage prepaid, this the 15<sup>th</sup> day of October 2007, to the following address:

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October 10, 2007

Gary W. Stout  
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*Sent via facsimile 334-393-0026, e-mail and regular mail*

RE: Ruby Streeter v Office of Douglas R. Burgess, LLC

Dear Gary:

Please cancel your travel plans to New York. We are in the process of putting together our second Offer of Judgment. The offer will abrogate the need for you to depose Mr. Burgess on October 12, 2007. I am sending this letter to you pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and will file a Motion for Protective Order if necessary.

I look forward to hearing from you.

Sincerely yours,

W. McCollum Halcomb  
FOR THE FIRM

